

Exhibit B

1 NIAL P. McCARTHY (Cal. SBN 160175)
nmccarthy@cpmlegal.com
2 ANNE MARIE MURPHY (Cal. SBN 202540)
amurphy@cpmlegal.com
3 ARON K. LIANG (Cal. SBN 228936)
aliang@cpmlegal.com
4 COTCHETT, PITRE & McCARTHY
840 Malcolm Road, Suite 200
5 Burlingame, CA 94010
Tel: (650) 697-6000
6 Fax: (650) 697-0577

7 STEVEN N. BERK
(*pro hac vice pending*)
8 steven@berklawdc.com
BERK LAW PLLC
9 1225 15th Street, N.W.
Washington D.C. 20005
10 Tel: (202) 232-7550
Fax: (202) 232-7556

ORIGINAL
FILED
NOV 13 2009
RICHARD W. WIENING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEITH L. MILLER
(*pro hac vice pending*)
klm4law@aol.com
Twenty One School Street
Boston, MA 02108
Tel: (617) 523-5803
Fax: (617) 523-4563

EMC

11 Attorneys for Plaintiff and the Putative Class

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION **5272**

16 KIMBERLY BENSON,
17 KARIMDAD BALOCH and
18 NEERJA JAIN GURSAHANEY,
individually and on behalf of all others
19 similarly situated,

20 Plaintiffs,

21 vs.

22 JPMORGAN CHASE BANK, N.A.,
23 individually and as successor in interest
of WASHINGTON MUTUAL, INC.;

24 Defendant.

Civil Action No. _____

25 CLASS ACTION COMPLAINT

- 26 (1) AIDING AND ABETTING FRAUD;
- 27 (2) AIDING AND ABETTING CONVERSION;
- (3) AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY
- (4) CONSPIRACY TO COMMIT FRAUD AND CONVERSION
- (5) VIOLATION OF BUS. & PROF. CODE § 17200, ET SEQ. - "UNLAWFUL", "UNFAIR" AND "FRAUDULENT" BUSINESS PRACTICES

JURY TRIAL DEMANDED

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION 1

II. JURISDICTION AND VENUE 4

 A. JURISDICTION IS PROPER 4

 B. VENUE IS PROPER SINCE THE MILLENNIUM PONZI SCHEME WAS
 BASED OUT OF NAPA, CALIFORNIA 5

III. PARTIES 6

 A. PLAINTIFFS 6

 B. DEFENDANT 9

 C. UNNAMED CO-CONSPIRATORS 9

IV. FACTUAL ALLEGATIONS 11

 A. HUNDREDS OF INVESTORS WERE DEFRAUDED BY
 PURCHASING CERTIFICATES OF DEPOSIT FROM A FICTIONAL
 BANK THROUGH UNIFORM AND IDENTICAL
 MISREPRESENTATIONS 11

 B. VARIOUS WAMU ACCOUNTS WERE OPENED FOR THE PONZI
 SCHEME AND USED TO LAUNDER INVESTOR MONIES TO
 OFFSHORE BANKING ACCOUNTS 15

 C. THE CENTER OF GRAVITY OF THE SCHEME WAS WAMU'S
 NAPA BRANCHES 17

 D. WAMU'S NAPA BRANCHES KNOWINGLY PROVIDED
 SUBSTANTIAL ASSISTANCE TO WISE AND THE HOEGELS IN
 THE COMMISSION AND FURTHERANCE OF THE MILLENNIUM
 PONZI SCHEME 18

 E. WAMU'S INSTITUTIONAL FAILURE TO PREVENT MONEY
 LAUNDERING OPERATIONS VIOLATED FEDERAL BANK
 SECURITY AND MONEY LAUNDERING LAWS 21

 F. WAMU VIOLATED FEDERAL BANKING LAWS 23

 G. WAMU PROVIDES THE MILLENNIUM PONZI SCHEME WITH A
 REMOTE BANKING PLATFORM AND PASSES THE PONZI
 SCHEME THROUGH TWO DIRECT AUDITS 23

 H. THE FRAUD IS UNCOVERED AND THE SEC FILES AN ACTION . 26

V. CLASS ACTION ALLEGATIONS 28

1	VI. CAUSES OF ACTION	31
2	FIRST CAUSE OF ACTION	
3	Aiding and Abetting Fraud	31
4	SECOND CAUSE OF ACTION	
5	Aiding and Abetting Conversion	34
6	THIRD CAUSE OF ACTION	
7	Aiding and Abetting A Breach of Fiduciary Duty	37
8	FOURTH CAUSE OF ACTION	
9	Conspiracy to Commit Fraud and Conversion	40
10	FIFTH CAUSE OF ACTION	
11	Violation of Business and Professions Code §§ 17200 <i>et seq.</i>	
12	Unlawful, Fraudulent, and Unfair Business Acts and Practice	42
13	VII. PRAYER FOR RELIEF	44
14	JURY TRIAL DEMAND	46

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 fraudulent Millennium account through two audits and approved fraudulent transactions
2 in violation of federal bank secrecy and money laundering laws. WAMU also knowingly
3 and intentionally developed and provided to Millennium a remote banking platform that it
4 could use to transfer and launder money faster and with less oversight, all in violation of
5 the law. Any cursory review of account activity would have detected a suspicious pattern
6 of transactions and uncovered the fraud being perpetrated on innocent investors.

7 3. The Millennium Ponzi scheme was started by William J. Wise ("Wise"),
8 who had a long history of securities violations. He was assisted by Jacqueline Hoegel and
9 her daughter Kristi Hoegel, who both also had histories with securities regulators. Wise
10 and the Hoegels obtained substantial assistance from WAMU's branch offices in Napa,
11 California to facilitate their sham banking operation. Over the last four years, WAMU
12 directly assisted Wise and the Hoegels in extracting millions from unwitting investors,
13 laundering that money through its accounts and transferring those funds to offshore
14 banking havens.

15 4. Tamara Miller, a Napa WAMU branch manager and Bianca Greeves, a
16 Napa WAMU commercial banking officer, and their various staff members, assisted Wise
17 and the Hoegels in: (1) selling fraudulent CDs to innocent investors; (2) commingling
18 those investor funds in WAMU accounts; (3) laundering money on behalf of Wise and the
19 Hoegels; and (4) either transferring those investor funds to off-shore banking havens or
20 converting those funds for the personal use of Wise and the Hoegels.

21 5. WAMU's involvement in the Millennium fraud was active and pervasive.
22 For example, by early 2008, WAMU had recommended and installed a special remote
23 banking platform, located in Wise and the Hoegel's Napa office, that facilitated the illegal
24 transfer and laundering of investor funds. This remote banking platform essentially
25 allowed Wise and Millennium to function as "a bank within a bank," freeing the entire
26 enterprise to conduct the fraud. Prior to permitting the installation of the components of
27 that remote platform, WAMU was required to and did conduct two separate audits of
28 Wise's Millennium operation. Based on such audits, WAMU knew that no Wise-related

1 enterprise was registered to sell securities in the United States, notwithstanding clear
2 documentation in WAMU's database stating that it was aware that Wise was purportedly
3 in the business of selling securities. WAMU also knew that Wise was moving millions of
4 dollars in investor funds that were being deposited into Wise-controlled WAMU accounts
5 to offshore banking havens unrelated to his U.S.-based business. WAMU's audit
6 provided it with uncontroverted evidence that Wise and the Hoegels were engaging in an
7 illegal enterprise. Nevertheless, WAMU continued to participate fully in the fraud,
8 including providing both legitimacy and critical banking services to Wise's enterprise that
9 allowed to it to thrive and continue defrauding innocent investors for years.

10 6. During the last two years, while participating in Wise's Ponzi scheme and
11 money laundering operation, WAMU was subject to a Consent Decree with the U.S.
12 Office of Thrift Supervision ("OTS") for its blatant failure to comply with the federal
13 anti-money laundering statutes, including the International Money Laundering Abatement
14 and Financial Anti-Terrorism Act of 2001, the Money Laundering Control Act of 1986
15 and the Bank Secrecy Act of 1970. The Consent Decree: (1) ordered strict compliance
16 with bank secrecy and money laundering reporting requirements; (2) the development of
17 new and improved policies for maintaining compliance with federal bank secrecy and
18 money laundering laws; (3) installed outside supervision on WAMU; (4) put into place
19 numerous restrictions on WAMU; and (5) required the appointment of at least one outside
20 member of WAMU's Board of Directors tasked with supervising future compliance with
21 federal bank secrecy and money laundering laws and reporting directly to the Board and
22 to the OTS regarding WAMU's remedial actions. (*See* Consent Decree, attached at
23 Exhibit A to this complaint).

24 7. On September 25, 2008, three days after the Federal Deposit Insurance
25 Company ("FDIC") seized Washington Mutual, JPMorgan acquired its assets and
26 liabilities. Prior to the acquisition of Washington Mutual's operations and accounts,
27 JPMorgan conducted a thorough due diligence analysis of those operations and accounts.
28 Because of that due diligence, JPMorgan gained actual knowledge of Washington

1 Mutual's active participation in the Millennium Ponzi scheme. As a result of the
2 acquisition, JPMorgan became the "successor" in interest to WAMU in accordance with
3 an agreement between JPMorgan and the FDIC entitled, "Purchase and Assumption
4 Agreement" between the Federal Deposit Insurance Corporation, Receiver of Washington
5 Mutual Bank, Henderson, Nevada, the Federal Deposit Insurance Corporation and
6 JPMorgan Chase Bank, N.A.

7 8. WAMU had actual knowledge of the Millennium Ponzi scheme through its
8 monitoring of Wise and the Hoegel's daily banking activities (through WAMU's branch
9 manager and commercial banking officer), two specific audits by WAMU's Treasury
10 Services Department, and strict customer review and money-laundering reporting
11 requirements required by the OTS. Nonetheless, WAMU continued to provide substantial
12 assistance to Wise's illegal enterprise and promoted the continued success of that
13 enterprise for a period in excess of four years. These practices continued after JPMorgan
14 acquired WAMU in September of 2008. For its own conduct and as WAMU's successor
15 in interest, JPMorgan is liable to Plaintiffs and the class for the damages they have
16 suffered.

17 II.

18 JURISDICTION AND VENUE

19 A. JURISDICTION IS PROPER

20 9. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)
21 because it involves a matter in controversy between citizens of different states and the
22 amount in controversy exceeds the sums or value of \$75,000, exclusive of interest and
23 costs.

24 10. This Court also has jurisdiction under 28 U.S.C. §§ 1332 (d)(2) (the "Class
25 Action Fairness Act") because the amount in controversy exceeds the sum or value of
26 \$5,000,000, exclusive of interest and costs, and members of the proposed Class are
27 citizens of a state different than that of the Defendant.

1 11. This Court has personal jurisdiction over the Defendant and venue is proper
2 because a substantial portion of the wrongdoing alleged in this Complaint took place in
3 this state; the Defendant is authorized to do business here and does conduct business here;
4 Defendant has sufficient minimum contacts with this state; and/or the Defendant
5 otherwise intentionally availed itself of markets in this state through the promotion,
6 marketing and sales of its products and services in this state to render the exercise of
7 jurisdiction by this Court permissible under traditional notions of fair play and substantial
8 justice.

9 12. In particular, the scheme was perpetuated through WAMU's branch offices
10 in Napa, California, which is located in this District. WAMU's Napa branch offices
11 actively participated in the fraud and were a critical component of the scheme. The
12 closest division to Napa, California is the San Francisco division of the Northern District
13 of California.

14 **B. VENUE IS PROPER SINCE THE MILLENNIUM PONZI SCHEME WAS**
15 **BASED OUT OF NAPA, CALIFORNIA**

16 13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) because
17 WAMU's involvement in the Millennium Ponzi scheme was principally through its Napa
18 branch offices and therefore, a substantial part of the events or omissions giving rise to
19 Plaintiffs' claims occurred in this District.

20 14. The majority of WAMU's wrongful conduct, as alleged in this complaint,
21 originated in the Napa WAMU branches. Tamara Miller and Bianca Greeves, the two
22 key WAMU employees who handled the business for the Millennium Ponzi scheme were
23 located at the WAMU branch offices in Napa. The UT of S, LLC ("UT of S") bank
24 account where all of the investor monies were being deposited into and then either
25 withdrawn for personal use or transferred to offshore accounts was handled locally
26 through WAMU's Napa branch offices. The remote banking platform that WAMU
27 provided to Wise and his associates was installed at their offices in Napa, California. The

1 audits that WAMU conducted prior to providing the remote banking platform took place
2 in Napa.

3 15. Napa, California is designated a "High Intensity Financial Crime area"
4 under federal bank secrecy and money laundering laws. The financial services company
5 that Kristi and Jacqueline Hoegel used as the cover for their operations was located in
6 Napa, California. The main office of that company is at 3432 Valle Verde Drive, Napa,
7 California 94558.

8 16. The vast majority of WAMU witnesses and documents related to the
9 Millennium Ponzi scheme are likely located at or near the WAMU Napa branch offices.
10 The two key WAMU employees involved with the Millennium Ponzi scheme, Tamara
11 Miller and Bianca Greeves, both reside and work in and around Napa, California. As
12 such, this venue is the most convenient location for prosecuting this litigation.

13 III.
14 PARTIES

15 A. PLAINTIFFS

16 17. Plaintiff **Neerja Gursahaney** ("Gursahaney") is a citizen and resident of
17 the State of Virginia who resides in Clifton, Virginia. In or about August 2008, she
18 purchased a certificate of deposit, purportedly valued at \$4,000,000 from Millennium
19 Bank and/or United Trust of Switzerland, S.A. ("UTS"), by wiring funds to UT of S.
20 Gursahaney sent the money directly to WAMU which was routed to UT of S, LLC's
21 WAMU account: 0983949648.

22 WIRE INSTRUCTIONS - UT of S

23 WASHINGTON MUTUAL BANK, I.A.
SAHARA PAVILION FINANCIAL CENTER
4724 W. SAHARA AVE.
LAS VEGAS, NV 89102
1-702-880-1411 / 1-702-880-1410

24 ROUTING NUMBER: 322271627

25 INTERNATIONAL WIRE SWIFT CODE: WMSB3566

26 CREDIT TO:

27 UT of S
ACCOUNT NUMBER: 0983949648

RE: insert in special remarks section: Neerja Gursahaney

28 If a payment by ACH or automatic bill Kowl at (888) 363-0137

1 18. Plaintiff **Karimdad Baloch** ("Baloch") is a citizen and resident of the State
 2 of California who resides in Stockton, California. In or about February of 2008, Baloch
 3 purchased a certificate of deposit, purportedly valued at \$119,750 from Millenium Bank
 4 and/or UTS. Baloch forwarded a check payable to Jackie and Kristi Hoegel at Globalized
 5 Services at 3432 Valle Verde Drive, Napa, California.

7 **FedEx** US Airbill Express

8 FROM: **8636 0819 2225** **Sender's Copy**

9 FROM: **02/16/2008** Sender's First Account Number: **XXXXXXXXXXXXXXXXXXXX**

10 Sender's Name: **Karimdad Baloch** Phone: **1**

11 Company: _____

12 Address: _____

13 City: _____ State: _____ ZIP: _____

14 Your Internal Billing Reference: _____ OPTIONAL

15 To: **Jackie/Kristi** PHONE: **(888) 776-7710**

16 Company: **Globalized Services**

17 Recipient's Address: **3432 Valle Verde Drive**

18 City: **Napa** State: **CA** ZIP: **94558**

19 **3** Express Package Service

20 FedEx Priority Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

21 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

22 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

23 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

24 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

25 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

26 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

27 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

28 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

29 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

30 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

31 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

32 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

33 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

34 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

35 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

36 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

37 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

38 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

39 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

40 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

41 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

42 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

43 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

44 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

45 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

46 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

47 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

48 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

49 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

50 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

51 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

52 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

53 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

54 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

55 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

56 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

57 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

58 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

59 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

60 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

61 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

62 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

63 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

64 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

65 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

66 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

67 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

68 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

69 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

70 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

71 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

72 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

73 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

74 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

75 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

76 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

77 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

78 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

79 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

80 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

81 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

82 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

83 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

84 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

85 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

86 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

87 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

88 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

89 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

90 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

91 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

92 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

93 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

94 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

95 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

96 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

97 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

98 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

99 FedEx 2Day® (Two Business Days™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

100 FedEx Standard Overnight® (Next Business Day™) (Monday-Friday, 9:00 AM-8:00 PM, excluding holidays)

19. **Kimberly Benson** ("Benson") is a citizen and resident of the State of
 20 California who resides in Shingletown, California. In or about the following dates, May
 21 23, 2006, May 15, 2007 and May 14, 2008, Benson purchased certificates of deposit,
 22 purportedly valued at over \$144,000 from Millennium Bank and/or UTS. Benson was a
 23 customer of WAMU and transferred over \$100,000 of her total investment to the UT of S
 24 WAMU account from her own WAMU personal checking account. WAMU knew that its
 25 own customers were sending large sums of money into the Millennium Ponzi scheme and
 26 did nothing to stop them. WAMU is liable not only for participating in the fraud, WAMU
 27 also owed a duty to its own customers, such as Benson, to protect them from transferring
 28 money from their WAMU account to UT of S's WAMU account.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Statement Covers
From: 04/28/07
Through: 06/24/07

Need assistance?
To reach us anytime,
call 1-800-788-7000
or visit us at wamu.com

KIMBERLY A BENSON

|||||000000000000000000000000

Do you have a Washington Mutual Credit Card? Apply online. Apply online at www.wamu.com/apply or
visit your local Financial Center.

Your WeMu Free Checking Detail Information

KIMBERLY A BENSON Account Number
Washington Mutual Bank, PA

Automatically transfer \$100 or more from your WeMu checking account into a Statement Savings account each month
and we'll waive the monthly fee on your Statement Savings account. Call us at 1-800-700-0000 or 800 by your local WeMu
to learn more and open your account today.

Your Account at a Glance

Beginning Balance	\$133.88	Next Anniversary Date	5/27/08
Checks Paid	-491.00	Available Overdraft Fee Waiver	2
Other Transfers	-\$80,529.77	WeMu Debit Rewards	
Deposits	+\$80,972.86	This statement period	\$0.00
Ending Balance	\$100.80	Total since anniversary date	\$0.12

Date	Description	Withdrawals (-)	Deposits (+)

* BANK TRANSFER TO UNITED TRUST OF SWITZERLAND (WAMU ACCOUNT)

This Statement Covers
From: 04/28/08
Through: 06/27/08

Need assistance?
To reach us anytime,
call 1-800-788-7000
or visit us at wamu.com

KIMBERLY A BENSON

|||||000000000000000000000000

WeMu Debit MasterCard® customers: The Guide to Swatch is online at www.wamu.com/swatch or call 1-800-NC-ASBEST for a
copy.

Your WeMu Free Checking Detail Information

KIMBERLY A BENSON Account Number
Washington Mutual Bank, PA

Your Account at a Glance

Beginning Balance	\$133.88	Next Anniversary Date	03/27/2008
Checks Paid	-\$20.00	Available Overdraft Fee Waiver	2
Other Transfers	-\$16,176.51	WeMu Debit Rewards	
Deposits	+\$16,808.21	This statement period	\$0.00
Ending Balance	\$1,715.58	Total since anniversary date	\$0.00

Date	Description	Withdrawals (-)	Deposits (+)
06/14	Transfer Withdrawal	\$14,471.86	

* BANK TRANSFER TO UNITED TRUST OF SWITZERLAND (WAMU ACCOUNT)

1 20. Plaintiffs Benson, Baloch and Gursahaney bring this action individually and
2 on behalf of all others similarly situated who, from July 1, 2004 to the present, purchased
3 or otherwise acquired any Certificate of Deposit ("CD") from Millennium Bank and/or
4 UTS and/or otherwise tendered any monies to Wise, the Hoegels, Millennium Bank, UTS
5 or UT of S. The total number of investors in the Millennium Ponzi scheme is believed to
6 be in excess of 350 individuals and/or entities and the total amount of such investments is
7 believed to be in excess of \$150 million.

8 **B. DEFENDANT**

9 21. Defendant **JPMorgan Chase Bank, N.A. ("JPMorgan")**, successor in
10 interest to **Washington Mutual, Inc.**, is a wholly owned subsidiary of the publicly traded
11 Delaware financial holding company JPMorgan Chase & Co. JPMorgan is a national
12 banking association with U.S. branches in twenty-three states, including California. On
13 September 25, 2008, JPMorgan acquired certain assets and liabilities of Washington
14 Mutual, Inc. from its receiver, the FDIC under the terms of a "Purchase and Assumption
15 Agreement." With that transaction, JPMorgan became successor in interest to
16 Washington Mutual, Inc. and assumed certain assets and liabilities of Washington
17 Mutual, Inc., including liability for the claims alleged herein.

18 22. Hereinafter, JPMorgan and Washington Mutual, Inc. will be referred to
19 jointly in this complaint as "**WAMU.**"

20 **C. UNNAMED CO-CONSPIRATORS**

21 23. Plaintiffs allege that WAMU conspired with numerous individuals and
22 entities in furtherance of the fraud. On March 26, 2009, an order was issued enjoining
23 any actions against any of the following individuals or entities.¹ That order was amended
24 on June 22, 2009. (*See* Order Appointing Receiver and Amended Order Appointing
25

26
27 ¹ The unnamed co-conspirators identified in this complaint are not named as
28 defendants in this action as a result of the Northern District of Texas' order enjoining all private
investor claims against the unnamed co-conspirators. Plaintiffs reserve the right to bring civil
claims against these individuals and entities at a later date.

1 Receiver, attached at Exhibits B and C to this complaint). Below is a list of some of the
2 individuals and entities that conspired with WAMU and are subject to the Receiver Order.

3 **24. Millennium Bank (“Millennium”)** is a bank licensed in St. Vincent and
4 the Grenadines. Its business address is Financial Services Centre, Stoney Ground,
5 Kingstown, St. Vincent and the Grenadines. Millennium offered high-yield “CDs” and
6 other bank services from its website, www.mlnbank.com, and in other advertisements.
7 Millennium has never registered an offering of securities with the Commission.

8 **25. United Trust of Switzerland, S.A. (“UTS”)** is a Swiss chartered business
9 entity that wholly-owns Millennium. Millennium’s offering materials claimed that UTS
10 operates “a vast global investment network.”

11 **26. UT of S, LLC (“UT of S”)** is a Nevada limited liability company. UT of
12 S’s principal office is located at 3432 Valle Verde Dr., Napa, California. UT of S was
13 organized in July of 2004. UT of S handled all of its banking operations at the WAMU
14 branch offices in Napa, California. WAMU knowingly provided substantial assistance to
15 UT of S in laundering investor monies to offshore banking havens and/or converting
16 those funds for the personal use of Wise and the Hoegels.

17 **27. United T of S, LLC** is a Nevada limited liability company. United T of S,
18 LLC was organized in July 2004. At various times relevant to this litigation, Jacqueline
19 Hoegel and Wise served as the manager of United T of S, LLC, and Kristi Hoegel has
20 been its managing member.

21 **28. Sterling I.S., LLC** is a Nevada limited liability company. Sterling I.S.,
22 LLC was organized in July 2004. At various times relevant to this litigation, Jacqueline
23 Hoegel and Wise served as the manager of Sterling, I.S., LLC, and Kristi Hoegel has been
24 its managing member.

25 **29. UT of S, United T of S, LLC and Sterling I.S., LLC** are referred to
26 collectively as the “Nevada LLCs.”

27

28 ///

1 30. **William J. Wise (“Wise”)**, 58, is a resident of Raleigh, North Carolina and
2 the Caribbean. At all relevant times, Wise controlled Millennium, UTS and UT of S. In
3 2003, Wise was reprimanded by the Pennsylvania Securities Commission and ordered to
4 comply with state securities laws in connection with the sale of high return “deposit
5 agreements” offered by a Grenada-based bank.

6 31. **Kristi M. Hoegel a/k/a Kristi M. Christopher a/k/a Bessy Lu**, 34, is a
7 resident of Napa, California. At all relevant times, Kristi Hoegel exercised control over
8 Millennium, UTS and UT of S. On May 25, 2006, Kristi Hoegel was ordered to cease
9 and desist from selling unregistered securities in the State of Minnesota.

10 32. **Jacqueline S. Hoegel a/k/a Jacqueline S. Hoegel and Jackie S. Hoegel**,
11 52, is a resident of American Canyon, California. Jackie Hoegel is Kristi Hoegel’s
12 mother. At all relevant times, Jacqueline Hoegel exercised control over and handled
13 official business for Millennium, UTS and UT of S.

14 **IV.**

15 **FACTUAL ALLEGATIONS**

16 **A. HUNDREDS OF INVESTORS WERE DEFRAUDED BY PURCHASING**
17 **CERTIFICATES OF DEPOSIT FROM A FICTIONAL BANK THROUGH**
18 **UNIFORM AND IDENTICAL MISREPRESENTATIONS**

19 33. The Ponzi scheme underlying this litigation was orchestrated by Canadian
20 citizen and Raleigh, North Carolina resident, William J. Wise (“Wise”). In March of
21 2009, the U.S. Securities and Exchange Commission (“SEC”) filed a civil enforcement
22 action against Wise, two close associates, Jacqueline and Kristi Hoegel (the “Hoegels”),
23 and other related parties. The civil enforcement action alleged that Wise and the Hoegels
24 were engaged in an illegal financial investment scheme which the SEC claimed had
25 defrauded over 350 innocent investors out of about \$150 million. (*See* SEC Complaint,
attached at Exhibit D to this complaint).

26 34. Wise, a Canadian lawyer, has been involved in questionable and suspicious
27 investment schemes dating back to the early 1990's. In late 1999, he traveled to St.

1 Vincent & Grenadines in the Caribbean and opened an offshore bank, Millennium Bank
2 & Trust Company, later renamed simply Millennium Bank (“Millennium”).


3 35. Using a website originally created in 2003 and an aggressive Internet
4 advertising campaign launched in 2004, Wise and his associates began promoting the sale
5 of Certificates of Deposit (“CDs”) with promised annual yields that exceeded by 3-5
6 percent the best available rate for CDs available in the U.S. These assertions were
7 materially false and misleading. The misrepresentations made to Plaintiffs and Class
8 members were uniform and identical and made principally via Internet advertising on
9 Millennium’s website, www.mlnbank.com. According to the SEC, these uniform and
10 identical misrepresentations included the following misrepresentations contained in
11 Millennium advertisements:

- 12 ● Offering investors exceptionally high interest rates on its “high-yield CDs.”
- 13 ● “Once you have invested in one of our accounts, your rate of return is
14 locked in and you will benefit from the terms you have chosen.”
- 15 ● Investors can “invest with confidence in Millennium Bank” because:
16 “Millennium Bank is not affected by the global financial crisis...”
- 17 ● “Millennium Bank has ‘a 100% client satisfaction record going back close
18 to ten years when Millennium Bank was founded’”
- 19 ● “Millennium Bank has its own affiliate asset management company with
20 highly seasoned professionals who invest meticulously on a global scale in
21 carefully selected real estate markets and equities as well as viable private
22 investments.”
- 23 ● Stating that United Trust of Switzerland, S.A. “provides Millennium Bank
24 with over 75 years of banking experience, correspondent banking
25 relationships, decades of knowledge in privacy and confidentiality as well
26 as extensive training for our customer services professionals.” Millennium
27 marketed itself as strong, safe, and secure, and backed by United Trust of
28 Switzerland, S.A.

- Millenium offers high-yield CDs with “a guaranteed rate of return to avoid market fluctuations.”
- Millennium Bank is “the benefactor of Swiss banking . . . as well as the vast global investment network that United Trust of Switzerland S.A. has built over the last 75 years.”

36. These misrepresentations were identical and made uniformly to Plaintiffs and other Class members via a standardized program put together by Wise and his associates.

37. Investors in the Millennium Ponzi scheme would receive statements such as the one attached below:

Statement		Premium		
				
Gursahaney				
Account Number		Principal Investment	\$4,000,000.00	
Statement Date	1/1/2009	Term	6 month	
Issue Date	10/3/2008	A.P.Y.	3.15%	
Code	10424	Starting Balance	\$4,000,000.00	
Month Ending	Principal	Compound Rate	Interest	Fatal
November 2	\$4,000,000.00	0.504%	\$21,170.28	\$4,021,170.28
December 2	\$4,021,170.28	0.504%	\$21,480.21	\$4,042,650.49
Interest This Quarter		Total Interest to Date		Ending Balance
\$42,650.49		\$42,650.49		\$4,042,650.49
<small>Questions Concerning This Statement? Call 212-312-8111</small>				

38. These statements were completely fictional, pretending to show that Class members, such as Plaintiff Gursahaney, received interest on the money they invested in the Millennium/UTS CDs.

39. In addition, Plaintiffs and Class members would receive falsified Certificates of Deposit from Millennium and UTS, such as the one below:


UNITED TRUST OF SWITZERLAND SA *

Certificate of Deposit P 22421

KARIMDAD BALOCH

Person(s)/Corporate Name _____	Term Instructions _____	Interest Instructions _____
Date & Rate _____	Term Instructions	Interest Instructions
Issue Date: <u>FEB 19 2008</u>	<input checked="" type="checkbox"/> 6 Year	<input checked="" type="checkbox"/> COMPOUNDED
Interest Rate: <u>7.75%</u>	<input type="checkbox"/> 5 Year	<input type="checkbox"/> QUARTERLY
Maturity Date: <u>FEB 19 2009</u>		<input type="checkbox"/> MONTHLY

This is to certify that the undersigned has deposited into United Trust of Switzerland SCL the sum of (117,750.00) USD ^{US\$}
ONE HUNDRED NINETEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS
 according to the terms set out above payable to the depositor at maturity upon return of this certificate properly endorsed.
Early withdrawal will result in a Penalty.


 United Trust of Switzerland (Printed Signature & Seal)

Signature on File

 Depositor's Signature

[Signature]

 Depositor's Signature

 Depositor's Reception Signature

40. The account statements and Certificate of Deposits that were sent to Plaintiffs and the Class members were on a standardized form.

41. Wise and his associates claimed that Millennium was a wholly owned subsidiary of United Trust of Switzerland S.A. ("UTS"). UTS, however, was not registered with Swiss authorities as a bank, trust institution, or other financial services company. In fact, neither Millennium nor UTS ever conducted any real banking business. Rather, Wise had established an illegal U.S.-based depository, sales and service operation in Napa, California, managed by the Hoegels, whose singular purpose was to collect investor deposits and, using the accounts established with WAMU, to funnel these funds either offshore or to pay personal expenses of Wise and the Hoegels. This financial services entity was interchangeably referred to as Globalized Services or Global Services ("Global").

42. Neither Millennium, UTS or Global were licensed or registered anywhere in the United States to sell securities. This fact was easily verifiable. However, this did not deter Wise from promoting and soliciting the sale of Millennium/UTS CDs to customers

1 in the United States and Canada, or collecting and depositing millions of dollars in
2 investor funds into WAMU accounts controlled by Wise and the Hoegels. Investor
3 deposits were collected by Wise and his associates in exchange for Certificates of Deposit
4 ostensibly issued by UTS in Geneva. Wise and his associates claimed that they could
5 offer superior rates of return to standard CDs due to UTS' "global investment network."
6 The truth however was that these fake CDs were in fact created in Napa under the
7 fictional UT of S entity. Investor monies were collected into WAMU accounts controlled
8 by Wise and the Hoegels and from these WAMU accounts, money was then
9 systematically transferred to other accounts Wise held in offshore banking havens,
10 including Switzerland and Trinidad and Tobago. These incoming investor wires and
11 outgoing transfers were all handled by the Napa WAMU branch offices at Trancas and
12 Soscol Street.

13 43. Beginning in 2004, the Millennium Internet marketing plan was remarkably
14 successful and the Ponzi scheme soon began bringing in millions of dollars. However,
15 with so much money flowing in, Wise needed the cooperation and assistance of a willing
16 banking institution to manage such a tremendous amount of money flow without raising
17 the suspicions of state and federal banking authorities and securities regulators. Due to
18 federal bank secrecy and money laundering laws, the majority of financial institutions
19 maintain strict compliance procedures to detect money laundering operations. Wise
20 needed a pliant and willing banking accomplice. WAMU provided the solution.

21 **B. VARIOUS WAMU ACCOUNTS WERE OPENED FOR THE PONZI**
22 **SCHEME AND USED TO LAUNDER INVESTOR MONIES TO**
23 **OFFSHORE BANKING ACCOUNTS**

24 44. Based on an interview and information provided by Laurie Walton, Wise's
25 former personal secretary in Raleigh, North Carolina, it appears that prior to opening bank
26 accounts with WAMU, Wise had utilized not less than three other U.S. banks (BB&T
27 Bank, RBC Bank, North State Bank) to handle the money flow from the Millennium
28 Ponzi scheme. Most of these financial institutions were located in the Raleigh area,
where Wise resided. However, due to the suspicious nature of the business being

1 conducted, Wise was eventually informed by these institutions that his business was no
2 longer welcome and his Millennium accounts were closed.

3 45. By the middle of 2004, Wise needed a financial institution that would be
4 willing to allow him to move tens of millions of dollars between accounts, transfer tens of
5 millions of dollars to offshore banking accounts and withdraw millions for personal use
6 without ever questioning the suspicious nature of these transactions or his unlicensed
7 status. More specifically, he needed to find employees of a financial institution that
8 would provide active assistance in expediting and concealing the Ponzi scheme.

9 46. In July of 2004, Wise and the Hoegels traveled to Las Vegas, Nevada for
10 the specific purpose of forming three different Nevada limited liability companies, UT of
11 S, LLC, United T of S, LLC and Sterling I.S., LLC ("Nevada LLCs"). Although all three
12 would be Nevada limited liability companies, each would list its principal office c/o
13 Globalized Services in Napa, California. UT of S, LLC and United T of S, LLC, were
14 given similar names as United Trust of Switzerland, S.A. so that investors could be
15 tricked into sending money to United States shell companies that would divert money to
16 Wise's offshore banking accounts, as opposed to sending money to Switzerland.

17 47. Upon establishing the Nevada LLCs, Wise and the Hoegels immediately
18 walked into a WAMU Las Vegas branch and opened bank accounts in the names of the
19 Nevada LLCs. WAMU's Las Vegas branch opened the accounts in Nevada even though
20 it knew that the companies purportedly operated from Napa, California where they had
21 branches in existence.

22 48. WAMU proved to be the ideal banking partner for Wise's fraudulent
23 scheme. WAMU permitted Wise to open these accounts in the absence of any
24 documentation to show a legitimate business purpose, or any registration to carry on the
25 activities for which the LLC's had been formed. WAMU had documentation indicating
26 that the Nevada LLCs were purportedly in the securities transactions business and they
27 saw tens of millions of dollars of investor monies flow into the accounts of the Nevada
28 LLCs. WAMU, however, knew that no money was being spent on investments and that

1 none of the Nevada LLCs were registered to do such business. Based on the paperwork
2 submitted to it, WAMU, through its Las Vegas branch, had actual knowledge that the
3 Nevada LLCs were not licensed or registered to promote or sell securities in the U.S. In
4 fact, at the time the accounts were opened, WAMU knew that the Nevada LLCs had no
5 legitimate business purpose.

6 **C. THE CENTER OF GRAVITY OF THE SCHEME WAS WAMU'S NAPA**
7 **BRANCHES**

8 49. WAMU's branch offices in Napa, California were the center of gravity of
9 WAMU's involvement in the Millennium Ponzi scheme. All of the banking business
10 involving the UT of S bank account where the investor funds had been wrongfully
11 misappropriated, was handled by WAMU's Napa branch offices. It was WAMU's
12 managers and employees at their Napa branches who approved the deposits of hundreds
13 of millions of dollars of innocent investors' monies and allowed Wise and his associates
14 to misappropriate that money, either through international wire transfers to known
15 banking havens or by allowing Wise and his associates to use that money for personal
16 expenses. With the money unlawfully obtained from investors, Jacqueline Hoegel
17 purchased property in Napa.

18 50. The vast majority of checks written by the Plaintiffs and other Class
19 members were sent to Global's offices at 3432 Valle Verde Drive, Napa, California
20 94558. Jacqueline and Kristi Hoegel, who handled the banking side of the Millennium
21 Ponzi scheme, had the most contact with WAMU, and both reside in Napa, California.

22 51. The managers, agents and employees of WAMU at its Napa branches
23 actively and knowingly assisted Wise and his associates to commit the fraud. The two
24 WAMU employees closest to the Millennium Ponzi scheme, Tamara Miller and Bianca
25 Greeves, were based at WAMU's Napa branch office at 699 Trancas Street, Napa,
26 California 94558. Bianca Greeves also worked out of the Napa branch office at 257
27 Soscol Avenue, Napa, California 94559. The vast majority of WAMU witnesses and
28 documents related to the Millennium Ponzi scheme are likely located at or near the

1 WAMU Napa branch offices. While WAMU is a national bank, almost all of WAMU's
2 involvement in the Millennium Ponzi scheme occurred at its Napa branch.

3 **D. WAMU'S NAPA BRANCHES KNOWINGLY PROVIDED SUBSTANTIAL**
4 **ASSISTANCE TO WISE AND THE HOEGELS IN THE COMMISSION**
5 **AND FURTHERANCE OF THE MILLENNIUM PONZI SCHEME**

6 52. Within weeks after opening the accounts in Las Vegas, the Hoegels used
7 the services of the WAMU branch offices in Napa, California to further the fraudulent
8 enterprise. Checks for large sums were delivered by the Hoegels in bulk to WAMU's
9 Napa branch offices for deposit, to be immediately followed up with international wire
10 transfer requests to known banking and tax havens. These requests were in large sums
11 that most financial institutions would have reported to authorities as suspicious.
12 However, senior WAMU employees, including but not limited to branch manager
13 Tamara Miller and commercial banking officer Bianca Greeves provided substantial,
14 active assistance to Wise and the Hoegels in effectuating both the deposits of large bulk
15 checks and the subsequent suspicious transfers of millions of dollars to offshore banking
16 accounts. WAMU, and in particular its senior Napa employees knew of the fraud and
17 became active participants in the fraud WAMU, its bank officers and staff provided
18 substantial assistance to the Millennium Ponzi scheme, including but not limited to
19 committing the following unlawful acts:

- 20 a. Taking receipt of checks in large bulks physically delivered to the
21 Napa WAMU branches by the Hoegels;
- 22 b. WAMU knew that the money was ostensibly tendered in exchange
23 for bank certificates of deposit based on handwritten notations
24 appearing on virtually every check submitted. WAMU also had
25 actual knowledge, however that neither Wise, the Hoegels nor the
26 named account holders were registered or licensed to sell or promote
27 securities in the U.S;
- 28 c. Permitting and assisting the commingling of these funds from
different investors into a single account, and then effecting wire

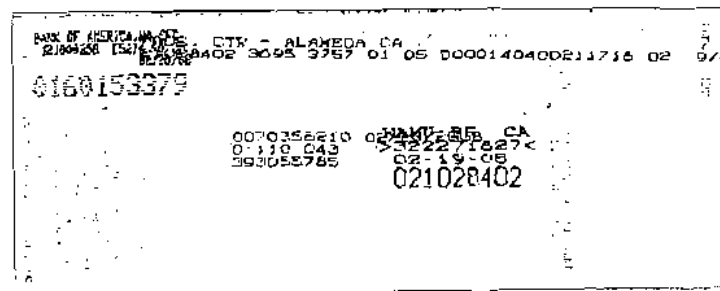
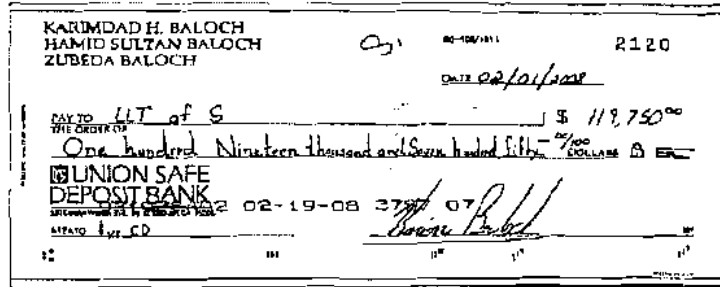
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

transfers of those funds out to various offshore accounts held in names other than those of the Nevada LLCs, including accounts in Switzerland and Trinidad and Tobago;

- d. Allowing and facilitating the use of investor funds to effect payments to Wise, the Hoegels and their various family members for large personal expenses, including payment of huge sums due on Wise's credit cards, for expenses relating to Wise's personal jet aircraft, his automobiles and vintage wine collections.

53. WAMU's Napa branches handled and accepted these bulk checks totaling in the millions of dollars, effectuated wire transfers to known offshore banking havens and otherwise provided substantial assistance to Wise and the Hoegels for over four years. Over an approximately four year period, WAMU allowed over \$14 million to be transferred to individuals with a known history of securities law violations.

54. A copy of a sample check that was processed and reviewed by WAMU is attached below:



1 55. In its position, WAMU was able to review the checks that were being
2 cashed into the UT of S WAMU account. WAMU knew that many of these checks
3 purportedly referenced "CD" accounts with interest rates ranging from 6.75% to 10%,
4 even though WAMU knew that none of the Wise-related entities were registered
5 securities dealers. WAMU also knew that none of the monies flowing into the UT of S
6 WAMU account were being used to purchase securities. Instead, it knew that hundreds of
7 millions of dollars of investor funds were flowing into the account and then being wired
8 to known offshore banking havens or being used to pay the personal expenses of Wise
9 and his associates, including payments for the Millennium jet:



19 56. During that time, WAMU's senior employees, including its Napa
20 branch manager and commercial banking officer, as well as other staff knew of the nature
21 of the illegal activities being undertaken by Wise and his associates. In fact, the
22 significant commitment of time required to service the Nevada LLC's accounts
23 precipitated steps by senior WAMU officials to streamline the process by which the
24 Nevada LLC's could launder money through WAMU while reducing the required
25 oversight of those Nevada LLCs. This would eventually lead to WAMU building a
26 remote banking platform for Wise and the Hoegels in UT of S's Napa offices.

27
28 ///

1 **E. WAMU'S INSTITUTIONAL FAILURE TO PREVENT MONEY**
2 **LAUNDERING OPERATIONS VIOLATED FEDERAL BANK SECRECY**
3 **AND MONEY LAUNDERING LAWS**

4 57. Given the lack of oversight or apparent concern about Wise's suspicious
5 activities, it is no coincidence that in the fall of 2007, the OTS imposed a Consent Order
6 to Cease and Desist for Affirmative Relief ("Consent Decree") on WAMU for poor,
7 sloppy, inadequate and, in some instances, non-existent controls relating to compliance
8 with the U.S. anti-money laundering statutes, including but not limited to the Bank
9 Secrecy Act, the Money Laundering Control Act and the Patriot Act. The Consent
10 Decree placed various restrictions on WAMU, increased oversight and required the
11 appointment of an outside WAMU Board member to participate on a Compliance
12 Committee tasked to report to the Board and the OTS regarding heightened compliance
13 and vigilance. The Consent Decree went into effect on October 17, 2007.

14 58. Under the Bank Secrecy Act, banks are trained to spot, and required to
15 report, cash transactions exceeding \$10,000 and suspicious activity that might be a sign of
16 money laundering, especially after September 11, 2001, when the passage of the USA
17 Patriot Act required stepped up scrutiny. The International Money Laundering
18 Abatement and Financial Anti-Terrorism Act of 2001 imposed added due diligence
19 requirements on financial institutions that required them to provide Suspicious Activity
20 Reports ("SAR") if they detected account activity that was suggestive of money
21 laundering activities. The transfers and activities undertaken by Wise and his associates
22 with the WAMU accounts had many of the features of money laundering, such as
23 frequent large transfers to offshore banking accounts with no apparent business purpose,
24 and large deposits but few cash withdrawals for daily operations.

25 59. The primary regulator of national banks, the Office of the Comptroller of
26 the Currency ("OCC"), described the goals of the Bank Secrecy Act in its 2000
27 handbook:

28 Money laundering is the criminal practice of filtering ill-gotten gains or
"dirty" money through a maze or series of transactions, so the funds are
"cleaned" to look like proceeds from legal activities.

1 60. Congress enacted the Bank Secrecy Act to prevent banks and other
2 financial service providers from being used as intermediaries for, or to hide the transfer or
3 deposit of money derived from, criminal activity. In particular, the Department of the
4 Treasury warned that investment funds such as Millennium and UTS were prime
5 candidates for money laundering. Upon information and belief, WAMU did not file any
6 SAR relating to the Nevada LLC's WAMU accounts.

7 61. A financial institution must educate its employees, understand its customers
8 and their businesses, and have systems and procedures in place to distinguish routine
9 transactions from ones that rise to the level of suspicious activity.

10 62. The OCC specifically identifies several "examples of **potentially**
11 **suspicious activities that should raise red flags** for further investigation to determine
12 whether the transactions or activities reflect illicit activities rather than legitimate
13 business activities and whether a Suspicious Activity Report should be filed." Many of
14 the following applied to Wise and the Millennium Ponzi scheme:

- 15 • A customer opens several accounts for the type of business he or she
16 purportedly is conducting and/or frequently transfers funds among those
 accounts.
- 17 • A customer frequently makes large dollar transactions (such as deposits,
18 withdrawals, or purchases of monetary instruments) without an explanation
 as to how they will be used in the business.
- 19 • A business account history that shows little or no regular, periodic activity;
20 the account appears to be used primarily as a temporary repository for funds
 that are transferred abroad. For example, numerous deposits of cash
21 followed by lump-sum wire transfers.
- 22 • The currency transaction patterns of a business experience a sudden and
 inconsistent change from normal activities.
- 23 • Unusual transfer of funds among related accounts or accounts that involve
24 the same principal or related principals.
- 25 • Funds transferred in and out of an account on the same day or within a
 relatively short period of time.
- 26 • A professional service provider, such as a lawyer, accountant, or broker,
27 who makes substantial deposits of cash into client accounts or in-house
 company accounts, such as trust accounts and escrow accounts.

1 63. Many of these red flags were obvious to WAMU, especially to the staff and
2 senior employees of Napa who devoted considerable time and attention specifically to the
3 Nevada LLC's WAMU accounts.

4 64. WAMU, for example, knew that UT of S was a domestic affiliate of
5 Millennium, a bank licensed in St. Vincent and the Grenadines which is on the Financial
6 Action Task Force's list of non-cooperative countries and territories.

7 **F. WAMU VIOLATED FEDERAL BANKING LAWS**

8 65. WAMU violated Sections 1813, 1815, 1817, 1818, 1819, 1881-1883 of
9 Title 12 of the United States Code and Sections 5311-5332 of Title 31 of the United
10 States Code because of the following:

- 11 a. Failing to adopt and maintain an adequate program to ensure
12 compliance with federal bank secrecy and money-laundering laws
13 and regulations;
- 14 b. Failing to adopt a Customer Identification Program;
- 15 c. Failing to conduct appropriate Customer Due Diligence or any other
16 enhanced due diligence due to the red flags surrounding the UT of S
17 WAMU account;

18 66. Indeed, it is evident that prior to the Consent Decree that WAMU, as an
19 institution, had no methodology or policy in place to prevent or detect money laundering,
20 as required by law. Afterwards, it appears that the Consent Decree and subsequent
21 remedial actions undertaken by WAMU had no effect on WAMU's continued
22 participation with Wise and the Hoegels in their illegal enterprise.

23 **G. WAMU PROVIDES THE MILLENNIUM PONZI SCHEME WITH A
24 REMOTE BANKING PLATFORM AND PASSES THE PONZI SCHEME
25 THROUGH TWO DIRECT AUDITS**

26 67. In February of 2008, a mere four months after the effective date of the
27 Consent Decree, Bianca Greeves, acting in her capacity as a WAMU's Napa commercial
28 banking officer, specifically recommended and then assisted in the development and
provision of a "cash management transfer" software ("CMT") system to permit the

1 Hoegels to effect outgoing wire transfers to offshore banking accounts directly from their
2 Napa office. WAMU employees personally trained the Hoegels in the use of the CMT
3 system.

4 68. The CMT system effectively enabled Wise to operate as a private WAMU
5 bank branch, a capability usually reserved for large financial institutions. CMT systems
6 pose risk to banks, as they enable customers to transfer funds in volume and at an
7 extremely fast rate, making tracing difficult. As a matter of policy, it is highly unusual to
8 provide a CMT system to a business with only two or three employees. The CMT system
9 was designed principally for large institutions with multinational operations and
10 providing this system to the Millennium/UTS Ponzi scheme would be an extraordinary
11 step for WAMU. Nevertheless, WAMU made the system available to Wise and the
12 Hoegels, providing them with substantial assistance to the fraud.

13 69. Upon information and belief, WAMU's Northern California Retail Banking
14 department was responsible for the sale or lease of the CMT system to Millennium and
15 the Nevada LLCs some time in early 2008. It is standard banking practice that the bank's
16 retail staff earns a commission or bonus for the placement of such a system with a client.

17 70. As a precondition of supplying a CMT system to a business customer, it is
18 necessary that an audit of the business take place. In this case, WAMU's Treasury
19 Management Department purportedly conducted such an audit, whose purpose was to
20 assign a compliance "risk rating" to the customer and its business. Notably, in most
21 cases, financially-oriented businesses, such as that engaged in by Wise and the Hoegels,
22 are assigned a higher risk rating and come under a higher level of scrutiny in the audit
23 process. With respect to the Nevada LLC's, such an audit would have, at a minimum,
24 investigated:

- 25 a. The nature of the business being conducted by the Nevada LLCs;
- 26 b. The industry or occupation served by the Nevada LLCs;
- 27 c. The financial strength of the Nevada LLCs;
- 28 d. The fact that the Nevada LLCs were not registered to sell securities;

- e. The number of persons employed by the Nevada LLCs;
- f. The number and amount of account debits per month; and
- g. The number and amount of account credits per month.

71. On information and belief, Jennifer Blevins, WAMU's Seattle based Business Treasury Services Senior Specialist, was responsible for the performance of the initial audit and specifically authorized the use of the CMT system by Wise and the Hoegels.

72. As a result of the Treasury Services Department audit, WAMU knew the precise nature of the business being conducted by Wise and the Hoegels, but nonetheless permitted the installation of the CMT system. By doing so WAMU not only facilitated the illegal enterprise, WAMU made it easier for Wise and the Hoegels to launder investor monies out of the country and to evade detection from regulators, when WAMU should have taken steps to halt this activity.

73. Nine months after recommending and providing to Wise and the Hoegels the CMT system, in September of 2008, Bianca Greeves recommended that Wise and the Hoegels consider acquiring a "remote deposit capture" ("RDC") system, a scanning machine and banking interface, which would permit the Hoegels to deposit investors' checks directly from their Napa office without ever having to step into a WAMU branch or having any documentation reviewed by any WAMU employee. The RDC system is a piece of hardware and again, WAMU employees specifically trained the Hoegels in the use of this system.

74. Authorization for the provision and installation of an RDC system required a further and more in-depth audit of the Nevada LLCs, and such an audit was again conducted by WAMU's Treasury Services Department. The second audit was again supervised by Jennifer Blevins in September of 2008. After Blevins completed her audit, WAMU authorized the installation of the RDC system, giving Wise and the Hoegels a complete remote banking platform from their Napa office. By authorizing first the CMT system and then the RDC system, WAMU gave Wise and the Hoegels *carte blanche* to

1 execute their Ponzi scheme, in that manner knowingly providing substantial assistance to
2 the fraud.

3 **H. THE FRAUD IS UNCOVERED AND THE SEC FILES AN ACTION**

4 75. Six months later, on or about March 25, 2009, the U.S. Securities and
5 Exchange Commission ("SEC") commenced an action in the United States District Court
6 for the District of Northern Texas, C.A. No. 7:09-CV-50-O, alleging that Wise was
7 carrying out a Ponzi scheme. In its press release, the SEC described Wise's actions as
8 follows:

9 On March 25, 2009, the Commission filed an emergency action in the
10 United States District Court for the Northern District of Texas to halt an
11 on-going \$68 million Ponzi scheme involving the sale of bogus certificates
12 of deposit ("CDs"). The Commission's complaint alleges that Defendants
13 William J. Wise, 58, of Raleigh, North Carolina and the Caribbean, and
14 Kristi M. Hoegel, 34, of Napa, California, orchestrated the scheme through
15 companies they control, including co-defendants Millennium Bank of St.
16 Vincent and the Grenadines, its Geneva, Switzerland-based parent, United
17 Trust of Switzerland S.A., and its U.S.-based affiliates, UT of S, LLC and
18 Millennium Financial Group. U.S. District Judge Reed O'Connor granted a
19 temporary restraining order, asset freeze, and other emergency relief against
20 Defendants, including the appointment of a receiver to take control of their
21 assets.

22 The complaint alleges that from July 2004 to the present, Millennium Bank,
23 acting through Wise, Kristi Hoegel, Jacqueline S. Hoegel, 52, of American
24 Canyon, California, Brijesh Chopra, 41, residence unknown, and Philippe
25 Angeloni, 63, of Raleigh, North Carolina, raised at least \$68 million from
26 over 375 investors. According to the Commission's complaint, the
27 Defendants solicited the funds for purported investment in self-styled
28 "CDs" which promised returns up to 321% higher than the national
overnight average rates offered on traditional bank-issued CDs.

The solicitations by the Defendants, which were distributed on the bank's
website, www.mlnbank.com, and in advertisements in luxury lifestyle
magazines, were replete with extensive and fundamental misrepresentations
about Millennium Bank and its CDs, according to the Commission's
complaint. For example, Millennium Bank mass marketed its CDs as safe
and secure with guaranteed rates of return. Millennium Bank also claimed
to be "the benefactor of Swiss banking . . . as well as the vast global
investment network that United Trust of Switzerland S.A. has built over the
last 75 years." According to the complaint, however, these assurances were
false, because neither Millennium Bank nor UT of S, LLC actually invested
any of the money it received from investors. Moreover, United Trust of
Switzerland S.A. is not a bank. In reality, investor funds were diverted to
the Defendants and used for a variety of illegitimate purposes.

The complaint alleges that, in order to create the appearance of a legitimate
offshore investment, Defendants instructed investors purchasing the

1 so-called "CDs" to mail/Federal Express their checks to the offshore bank.
2 Once received, the checks were packaged and mailed to UT of S, LLC's
3 office in Napa, California, where they were electronically deposited by a
4 remote deposit machine into a UT of S, LLC operating account. The
5 account, which is held at a major U.S. financial institution, also received
6 tens of millions of dollars in investor funds via wire transfer.

7
8 Furthermore, according to the complaint, bank records establish that a vast
9 majority of the \$68 million raised from investors was misappropriated by
10 the Defendants, who enriched themselves and paid their personal expenses,
11 while making small Ponzi payments to investors-satisfying investors'
12 liquidation requests with recent deposits of new investors.

13
14 76. On March 26, 2009, Richard B. Roper was appointed as the Receiver for
15 Millennium, UTS, UT of S, Millennium Financial Group, Wise, Kristi Hoegel, Jacqueline
16 Hoegel, Phillippe Angeloni and Brijesh Chopra. In that order, all actions against any of
17 the above-mentioned individuals or entities were enjoined. The order appointing Richard
18 B. Roper as receiver was amended on June 22, 2009. Over the last few months, the
19 receiver has frozen the assets of Millennium, UTS, UT of S, Millennium Financial Group,
20 Wise, Kristi Hoegel, Jacqueline Hoegel, Phillippe Angeloni and Brijesh Chopra, and has
21 been in the process of liquidating and selling those assets.

22
23 77. Plaintiffs file this class action, individually and on behalf of a class (the
24 "Class" as more fully defined below) of all persons who purchased or acquired
25 certificates of deposits ("CDs") from Millennium and/or UTS or otherwise invested
26 monies in Millennium, UTS or the Nevada LLCs from July 1, 2004 to the present.

27
28 78. WAMU knowingly provided bank accounts for use by Wise, which
permitted him, through his Ponzi scheme, to commingle, convert to his personal use and
abscond with the investment monies of the Plaintiffs and the other putative Class
members.

79. WAMU participated in and aided and abetted the fraudulent and illegal
activities of Wise and his associates and provided them with substantial assistance. With
knowledge of the fraud, WAMU elected to ignore the fact (a) that Wise and his associates
were promoting and appearing to sell securities in the U.S. without being licensed and
registered to do so, and (b) that Wise and his associates were commingling, converting

1 and absconding with investor monies. WAMU did this by approving and accepting
2 hundreds of deposits from investors, helping launder that money to Wise's offshore
3 accounts and then building a platform to allow Wise and his associates to effectuate the
4 fraud in a more efficient manner with no oversight from regulators.

5 80. As a direct and proximate result of WAMU's improper, tortious and illegal
6 conduct, Plaintiffs and the Class members have suffered loss of their investment monies
7 in the millions of dollars, other damages, and WAMU was unjustly enriched .

8 V.

9 CLASS ACTION ALLEGATIONS

10 81. This action is brought by Plaintiffs, individually and on behalf of all others
11 similarly situated, for violations of California common law and statutory law. Pursuant
12 to *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 814-815; *Occidental Land, Inc. v.*
13 *Superior Court* (1976) 18 Cal.3d 355, 362-363, the misrepresentations made to Plaintiffs
14 and Class members were **identical and based on a standardized program of fraud**,
15 making class certification appropriate. Plaintiffs bring this action pursuant to Federal
16 Rule of Civil Procedure 23, on behalf of themselves and others similarly situated. The
17 Class is defined as followed:

18 **All persons or entities in the United States who, between**
19 **July 1, 2004 to the present, purchased or otherwise**
20 **acquired a purported Certificate of Deposit ("CD") from**
or through Millennium, UTS and/or one of the Nevada
LLCs

21 Excluded from the Class are governmental entities, Defendant, any entity in which
22 Defendant has a controlling interest, and Defendant's officers, directors, legal
23 representatives, successors, subsidiaries, and assigns. Also excluded from the Class is
24 any judge, justice, or judicial officer presiding over this matter and the members of their
25 immediate families and judicial staff.

26 82. The standardized misrepresentations made by Millennium in its
27 advertisements include the following:

- 28 ● Offering investors exceptionally high interest rates on its "high-yield CDs."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- “Once you have invested in one of our accounts, your rate of return is locked in and you will benefit from the terms you have chosen.”
- Investors can “invest with confidence in Millennium Bank” because: “Millennium Bank is not affected by the global financial crisis...”
- “Millennium Bank has ‘a 100% client satisfaction record going back close to ten years when Millennium Bank was founded’”
- “Millennium Bank has its own affiliate asset management company with highly seasoned professionals who invest meticulously on a global scale in carefully selected real estate markets and equities as well as viable private investments.”
- Stating that United Trust of Switzerland, S.A. “provides Millennium Bank with over 75 years of banking experience, correspondent banking relationships, decades of knowledge in privacy and confidentiality as well as extensive training for our customer services professionals.” Millennium marketed itself as strong, safe, and secure, and backed by United Trust of Switzerland, S.A.
- Millenium offers high-yield CDs with “a guaranteed rate of return to avoid market fluctuations.”
- Millennium Bank is “the benefactor of Swiss banking . . . as well as the vast global investment network that United Trust of Switzerland S.A. has built over the last 75 years.”

83. Plaintiffs reserve the right to modify the Class description and the Class Period based on the results of discovery.

84. Plaintiffs seek to recover damages for themselves and the Class under the Unfair Business Practices Act, Business & Professions Code §§ 17200, *et. seq.* and for violations of California common law.

///

1 85. Plaintiffs and the Class also bring this action for equitable, injunctive and
2 declaratory relief pursuant to subdivisions (b)(1), (b)(2) and (b)(3) of Rule 23 of the
3 Federal Rules of Civil Procedure.

4 86. Numerosity of the Class - Federal Rule of Civil Procedure 23(a)(1). The
5 Class is so numerous that joinder of all members is impracticable. According to the SEC
6 and based on documentation available, there are at least 350 individual investors in the
7 Millennium Ponzi scheme. While the exact number of Class members is unknown at this
8 time, Plaintiffs are informed and believe that the number is in the hundreds.

9 87. Existence and Predominance of Common Questions of Law and Fact -
10 Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3). Common questions of law and
11 fact exist as to all Class members and predominate over questions affecting only
12 individual Class members. WAMU has acted, with respect to the Class, in a manner
13 generally applicable to the Plaintiffs and each Class member. There is a well-defined
14 community of interest in the questions of law and fact involved in this action, which
15 affects all Class members.

16 88. Typicality - Federal Rule of Civil Procedure 23(a)(3). Plaintiffs' claims are
17 typical of the claims of other members of the Class in that Plaintiffs and other Class
18 members were similarly harmed by the actions of WAMU as a knowing participant in the
19 Millennium Ponzi scheme. Plaintiffs are members of the Class they seek to represent and
20 have suffered harm due to the unfair, deceptive, unreasonable and unlawful practices of
21 the Defendant.

22 89. Adequacy of Representation - Federal Rule of Civil Procedure 23(a)(4) and
23 23(g)(1). Plaintiffs will fairly and adequately represent the interests of the Classes; their
24 interests are coincident with, and not antagonistic to those of the Class they seek to
25 represent. Plaintiffs are represented by experienced and able attorneys, who intend to
26 prosecute this action vigorously for the benefit of Plaintiffs and all Class members.
27 Plaintiffs and their counsel will fairly and adequately protect the interests of the Class
28 members.

1 90. Proper Maintenance of Class - Federal Rule of Civil Procedure 23(b)(2) and
2 (c). Defendant has acted or refused to act, with respect to some or all issues presented in
3 this Complaint, on grounds generally applicable to the Class, thereby making it
4 appropriate to provide relief with respect to the Class as a whole.

5 91. Superiority - Federal Rule of Civil Procedure 23(b)(3) and (c). A class
6 action is the best available method for the efficient adjudication of this litigation because
7 individual litigation of Class members' claims would be impracticable and unduly
8 burdensome to the courts, and have the potential to result in inconsistent or contradictory
9 judgments. There are no unusual difficulties likely to be encountered in the management
10 of this litigation as a class action. A class action presents fewer management problems
11 and provides the benefits of single adjudication, economies of scale and comprehensive
12 supervision by a single court.

13 VI.

14 CAUSES OF ACTION

15 FIRST CAUSE OF ACTION

16 Aiding and Abetting Fraud

17 92. Plaintiffs and Class members reallege and incorporate each and every
18 preceding paragraph stated above, inclusive, as though the same were fully set forth
19 hereafter.

20 93. Wise and his associates, as discussed above, made material
21 misrepresentations and omissions to Plaintiffs and members of the Class regarding
22 investments in so-called "Millennium/UTS Certificates of Deposit." Through the
23 unlawful and illegal sale of these CDs, Wise and his associates defrauded Plaintiffs and
24 the Class members.

25 94. Wise and his associates knowingly made false and misleading
26 representations to Plaintiffs and the Class members about investing in the Millennium and
27 UTS CDs. These misrepresentations were made in a uniform manner to Plaintiffs and the
28 Class members through a standardized program of fraud.

1 95. Wise and his associates intended for Plaintiffs and the Class members to
2 rely on those misrepresentations to their detriment.

3 96. Plaintiffs and the Class members were justified in their reliance on the
4 misrepresentations made by Wise and his associates.

5 97. As set forth in the complaint, WAMU had actual knowledge of the fraud
6 being perpetrated on Plaintiffs and the Class members by Wise and his associates.
7 Specifically, WAMU had actual knowledge that included but was not limited to the
8 following:

- 9 a. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had no
10 legitimate business purpose and were not licensed or registered to
11 sell or promote securities;
- 12 b. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had
13 represented they were involved in the securities business and were
14 selling investments to Plaintiffs and other Class members;
- 15 c. The Hoegels were depositing large sums of monies via suspicious
16 bulk check deposits. These checks were specifically designated by
17 the Plaintiffs and Class members as being for the purpose of
18 purchasing CDs from the Nevada LLCs;
- 19 d. These deposits from the Plaintiffs and other Class members were not
20 segregated but were being commingled in WAMU accounts used by
21 the Nevada LLCs;
- 22 e. WAMU executed large wire transfers on behalf of Wise, the Hoegels
23 and the Nevada LLCs to various offshore accounts in names other
24 than the Nevada LLCs to offshore banking havens, such as
25 Switzerland and Trinidad and Tobago;
- 26 f. WAMU's Napa branches expended considerable time and resources
27 managing the Nevada LLCs' WAMU accounts, which were amongst
28 the largest accounts handled at the Napa branches. At least one

1 branch manager and commercial banking officer were dedicated to
2 monitoring and assisting in the banking transactions executed by
3 Wise and the Hoegels over a four year period;

4 g. Numerous aspects of the Nevada LLC's WAMU accounts raised red
5 flags suggesting that the Nevada LLC's WAMU accounts were
6 being used for money laundering operations;

7 h. Funds retained in the Nevada LLC's WAMU accounts were being
8 misappropriated by Wise and the Hoegels for personal use.

9 98. As set forth in the complaint, WAMU substantially assisted Wise and his
10 associates in perpetrating their fraud upon Plaintiffs and other Class members.

11 Specifically, WAMU assisted in the fraudulent scheme in several ways including but not
12 limited to the following:

13 a. Opening accounts for the Nevada LLCs and allowing them to deposit
14 investor monies via suspicious bulk check deposits;

15 b. Permitting Wise and the Nevada LLC's to commingle investor
16 monies in the Nevada LLC's WAMU accounts;

17 c. Allowing Wise and the Nevada LLC's to transfer large sums of
18 investor monies via suspicious wire transfers to offshore banking
19 accounts where they could not be traced;

20 d. Allowing Wise and the Nevada LLC's to utilize large sums of
21 investor monies to pay for millions of dollars in extravagant personal
22 expenses;

23 e. Failing to comply with WAMU's obligations under federal bank
24 secrecy and money laundering laws, including, upon information and
25 belief, failing to warn any state or federal authorities of the Ponzi
26 scheme;

27 f. Recommending, approving and setting up a remote banking platform
28 that facilitated the Millennium Ponzi scheme by allowing Wise and

1 his associates to circumvent any procedures for oversight or
2 supervision of the WAMU account;

- 3 g. Conducting an inadequate audit of the Nevada LLCs that gave the
4 Nevada LLCs a false sense of legitimacy, as well as access to a
5 banking platform that transformed the Nevada LLCs into a “bank
6 within a bank.”

7 99. Without WAMU’s substantial assistance, Wise and his associates would not
8 have been able to defraud plaintiffs and the class members. In fact, WAMU’s
9 involvement gave the imprimatur of legitimacy to Wise’s fraudulent activity as viewed by
10 Plaintiffs and the Class members.

11 100. As a result of Wise’s fraud, and WAMU’s assistance thereof, Plaintiffs and
12 the Class members suffered economic losses in an amount to be proven at trial.

13 101. The wrongful acts of WAMU were done maliciously, oppressively, and
14 with intent to defraud, and Plaintiffs and Class members are entitled to punitive and
15 exemplary damages in an amount to be ascertained according to proof.

16 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

17 **SECOND CAUSE OF ACTION**

18 **Aiding and Abetting Conversion**

19 102. Plaintiffs and Class members reallege and incorporate each and every
20 preceding paragraph stated above, inclusive, as though the same were fully set forth
21 hereafter.

22 103. Wise and his associates, through the wrongful conduct alleged above,
23 including the illegal and unlawful “sale” of Millennium/UTS CDs, misappropriated and
24 converted funds belonging to Plaintiffs and the Class Members.

25 104. As set forth in the complaint, WAMU had actual knowledge of the
26 conversion of funds belonging to Plaintiffs and the Class members by Wise and his
27 associates. Specifically, WAMU had actual knowledge that included but was not limited
28 to the following:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- a. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had no legitimate business purpose and were not licensed or registered to sell or promote securities;
- b. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had represented they were involved in the securities business and were selling investments to Plaintiffs and other Class members;
- e. The Hoegels were depositing large sums of monies via suspicious bulk check deposits. These checks were specifically designated by the Plaintiffs and Class members as being for the purpose of purchasing CDs from the Nevada LLCs;
- d. These deposits from the Plaintiffs and other Class members were not segregated but were being commingled in WAMU accounts used by the Nevada LLCs;
- e. WAMU executed large wire transfers on behalf of Wise, the Hoegels and the Nevada LLCs to various offshore accounts in names other than the Nevada LLCs to offshore banking havens, such as Switzerland and Trinidad and Tobago;
- f. WAMU's Napa branches expended considerable time and resources managing the Nevada LLCs' WAMU accounts, which were amongst the largest accounts handled at the Napa branches. At least one branch manager and commercial banking officer were dedicated to monitoring and assisting in the banking transactions executed by Wise and the Hoegels over a four year period;
- g. Numerous aspects of the Nevada LLC's WAMU accounts raised red flags suggesting that the Nevada LLC's WAMU accounts were being used for money laundering operations;
- h. Funds retained in the Nevada LLC's WAMU accounts were being misappropriated by Wise and the Hoegels for personal use.

1 105. As set forth in the complaint, WAMU substantially assisted Wise and his
2 associates in the conversion of funds belonging to Plaintiffs and other Class members.
3 Specifically, WAMU assisted in the fraudulent scheme in several ways including but not
4 limited to the following:

- 5 a. Opening accounts for the Nevada LLCs and allowing them to deposit
6 investor monies via suspicious bulk check deposits;
- 7 b. Permitting Wise and the Nevada LLC's to commingle investor
8 monies in the Nevada LLC's WAMU accounts;
- 9 c. Allowing Wise and the Nevada LLC's to transfer large sums of
10 investor monies via suspicious wire transfers to offshore banking
11 accounts where they could not be traced;
- 12 d. Allowing Wise and the Nevada LLC's to utilize large sums of
13 investor monies to pay for millions of dollars in extravagant personal
14 expenses;
- 15 e. Failing to comply with WAMU's obligations under federal bank
16 secrecy and money laundering laws, including, upon information and
17 belief, failing to warn any state or federal authorities of the Ponzi
18 scheme;
- 19 f. Recommending, approving and setting up a remote banking platform
20 that facilitated the Millennium Ponzi scheme by allowing Wise and
21 his associates to circumvent any procedures for oversight or
22 supervision of the WAMU account;
- 23 g. Conducting an inadequate audit of the Nevada LLCs that gave the
24 Nevada LLCs a false sense of legitimacy, as well as access to a
25 banking platform that transformed the Nevada LLCs into a "bank
26 within a bank."

1 112. As set forth in the complaint, WAMU had actual knowledge of the
2 breach of fiduciary duty being committed by Wise and his associates. Specifically,
3 WAMU had actual knowledge that included but was not limited to the following:

- 4 a. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had no
5 legitimate business purpose and were not licensed or registered to
6 sell or promote securities;
- 7 b. Wise, the Hoegels, Millennium, UTS and the Nevada LLCs had
8 represented they were involved in the securities business and were
9 selling investments to Plaintiffs and other Class members;
- 10 c. The Hoegels were depositing large sums of monies via suspicious
11 bulk check deposits. These checks were specifically designated by
12 the Plaintiffs and Class members as being for the purpose of
13 purchasing CDs from the Nevada LLCs;
- 14 d. These deposits from the Plaintiffs and other Class members were not
15 segregated but were being commingled in WAMU accounts used by
16 the Nevada LLCs;
- 17 e. WAMU executed large wire transfers on behalf of Wise, the Hoegels
18 and the Nevada LLCs to various offshore accounts in names other
19 than the Nevada LLCs to offshore banking havens, such as
20 Switzerland and Trinidad and Tobago;
- 21 f. WAMU's Napa branches expended considerable time and resources
22 managing the Nevada LLCs' WAMU accounts, which were amongst
23 the largest accounts handled at the Napa branches. At least one
24 branch manager and commercial banking officer were dedicated to
25 monitoring and assisting in the banking transactions executed by
26 Wise and the Hoegels over a four year period;

27
28 ///

- 1 g. Numerous aspects of the Nevada LLC's WAMU accounts raised red
2 flags suggesting that the Nevada LLC's WAMU accounts were
3 being used for money laundering operations;
4 h. Funds retained in the Nevada LLC's WAMU accounts were being
5 misappropriated by Wise and the Hoegels for personal use.

6 113. As set forth in the complaint, WAMU substantially assisted Wise and his
7 associates in the breach of their fiduciary duties to Plaintiffs and the members of the
8 Class. Specifically, WAMU assisted in the fraudulent scheme in several ways including
9 but not limited to the following:

- 10 a. Opening accounts for the Nevada LLCs and allowing them to deposit
11 investor monies via suspicious bulk check deposits;
12 b. Permitting Wise and the Nevada LLC's to commingle investor
13 monies in the Nevada LLC's WAMU accounts;
14 c. Allowing Wise and the Nevada LLC's to transfer large sums of
15 investor monies via suspicious wire transfers to offshore banking
16 accounts where they could not be traced;
17 d. Allowing Wise and the Nevada LLC's to utilize large sums of
18 investor monies to pay for millions of dollars in extravagant personal
19 expenses;
20 e. Failing to comply with WAMU's obligations under federal bank
21 secrecy and money laundering laws, including, upon information and
22 belief, failing to warn any state or federal authorities of the Ponzi
23 scheme;
24 f. Recommending, approving and setting up a remote banking platform
25 that facilitated the Millennium Ponzi scheme by allowing Wise and
26 his associates to circumvent any procedures for oversight or
27 supervision of the WAMU account;

1 g. Conducting an inadequate audit of the Nevada LLCs that gave the
2 Nevada LLCs a false sense of legitimacy, as well as access to a
3 banking platform that transformed the Nevada LLCs into a “bank
4 within a bank.”

5 114. Without WAMU's substantial assistance, Wise and his associates would not
6 have been able to breach their fiduciary duties to Plaintiffs and other Class members. In
7 fact, WAMU's involvement gave the imprimatur of legitimacy to Wise's
8 misappropriation of the funds belonging to Plaintiffs and other Class members.

9 115. As a result of these breaches of fiduciary duty, and WAMU's assistance
10 thereof, Plaintiffs and the other Class members suffered economic losses in an amount to
11 be proven at trial.

12 116. The wrongful acts of WAMU were done maliciously, oppressively, and
13 with intent to defraud, and Plaintiffs and other Class members are entitled to punitive and
14 exemplary damages in an amount to be ascertained according to proof.

15 **FOURTH CAUSE OF ACTION**

16 **Conspiracy to Commit Fraud and Conversion**

17 117. Plaintiffs and Class members reallege and incorporate each and every
18 preceding paragraph stated above, inclusive, as though the same were fully set forth
19 hereafter.

20 118. Defendant entered into an agreement with the unnamed co-conspirators to
21 commit the wrongful acts alleged herein. Defendant and the unnamed co-conspirators
22 identified in this complaint engaged in a common purpose to unlawfully defraud investors
23 such as Plaintiffs and the Class members and to unlawfully convert their monies.
24 Defendant engaged in conduct in furtherance of that conspiracy. That conduct includes
25 WAMU's participation in the Millennium Ponzi scheme. A few of the acts committed by
26 WAMU in furtherance of the conspiracy are identified below:

27 a. Opening accounts for the Nevada LLCs and allowing them to deposit
28 investor monies via suspicious bulk check deposits;

- b. Permitting Wise and the Nevada LLC's to commingle investor monies in the Nevada LLC's WAMU accounts;
- c. Allowing Wise and the Nevada LLC's to transfer large sums of investor monies via suspicious wire transfers to offshore banking accounts where they could not be traced;
- d. Allowing Wise and the Nevada LLC's to utilize large sums of investor monies to pay for millions of dollars in extravagant personal expenses;
- e. Failing to comply with WAMU's obligations under federal bank secrecy and money laundering laws, including, upon information and belief, failing to warn any state or federal authorities of the Ponzi scheme;
- f. Recommending, approving and setting up a remote banking platform that facilitated the Millennium Ponzi scheme by allowing Wise and his associates to circumvent any procedures for oversight or supervision of the WAMU account;
- g. Conducting an inadequate audit of the Nevada LLCs that gave the Nevada LLCs a false sense of legitimacy, as well as access to a banking platform that transformed the Nevada LLCs into a "bank within a bank."

119. The individuals and entities acted in concert by joint ventures and by acting as agents for principals, in order to advance the objectives of the conspiracy to increase false revenues. Defendant was aware of the fraud being committed by Wise, the Hoegels and the other unnamed co-conspirators and the fact that they were converting the monies of Plaintiffs and other Class members. Defendant agreed with Wise, the Hoegels, Millennium, UTS, UT of S and the other unnamed co-conspirators, and intended that the wrongful acts alleged herein be committed. The conduct described in this complaint was intended to promote the conspiratorial objectives.

1 120. As a result of the conspiracy, Plaintiffs and the other Class members
2 suffered economic losses in an amount to be proven at trial.

3 121. The wrongful acts of WAMU were done maliciously, oppressively, and
4 with intent to defraud, and Plaintiffs and other Class members are entitled to punitive and
5 exemplary damages in an amount to be ascertained according to proof.

6 **FIFTH CAUSE OF ACTION**

7 **Violation of Business and Professions Code §§ 17200 *et seq.***

8 **Unlawful, Fraudulent, and Unfair Business Acts and Practice**

9 122. Plaintiffs and Class members reallege and incorporate each and every
10 preceding paragraph stated above, inclusive, as though the same were fully set forth
11 hereafter.

12 123. WAMU's acts and practices as described herein constitute unlawful,
13 fraudulent, and unfair business practices, in that (1) the justification for WAMU's
14 conduct is outweighed by the gravity of the consequences to Plaintiffs and members of
15 the Class, (2) WAMU's conduct is illegal, immoral, unethical, oppressive, unscrupulous,
16 unconscionable or substantially injurious to Plaintiffs and members of the Class, and/or
17 (3) the uniform conduct of WAMU had a tendency to deceive Plaintiffs and other
18 members of the Class.

19 124. As set forth in the complaint, WAMU's unlawful, unfair and fraudulent
20 business acts and practices include, but are not limited to, providing substantial assistance
21 to Wise and his associates. WAMU's violation of federal bank secrecy and money
22 laundering laws constitutes unlawful business acts and practices that is evidenced by the
23 Consent Decree imposed on WAMU by the OTS. In addition, WAMU's following
24 actions constitute unlawful business acts and practices pursuant to California Business &
25 Professions Code §§ 17200, *et. seq.*:

- 26 a. Opening accounts for the Nevada LLCs and allowing them to deposit
27 investor monies via suspicious bulk check deposits;

- b. Permitting Wise and the Nevada LLC's to commingle investor monies in the Nevada LLC's WAMU accounts;
- c. Allowing Wise and the Nevada LLC's to transfer large sums of investor monies via suspicious wire transfers to offshore banking accounts where they could not be traced;
- d. Allowing Wise and the Nevada LLC's to utilize large sums of investor monies to pay for millions of dollars in extravagant personal expenses;
- e. Failing to comply with WAMU's obligations under federal bank seerecy and money laundering laws, including, upon information and belief, failing to warn any state or federal authorities of the Ponzi scheme;
- f. Recommending, approving and setting up a remote banking platform that facilitated the Millennium Ponzi scheme by allowing Wise and his associates to circumvent any procedures for oversight or supervision of the WAMU account;
- g. Conducting an inadequate audit of the Nevada LLCs that gave the Nevada LLCs a false sense of legitimacy, as well as access to a banking platform that transformed the Nevada LLCs into a "bank within a bank."

125. Plaintiffs and the other Class members have been injured in fact and suffered a pecuniary loss as a result of spending monies to purchase or acquire CDs from Millennium, UTS and/or the Nevada LLCs, or otherwise investing in Millennium, UTS and/or the Nevada LLCs.

126. WAMU's conduct violates Business and Professions Code §§ 17200 *et seq.*, and other similar state unfair competition and unlawful practices statutes.

///

1 127. Pursuant to Business and Professions Code §§ 17200 and 17203, Plaintiffs,
2 on behalf of themselves and all other similarly situated, seek relief as prayed for below.

3 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

4 **VII.**

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs and all Class members pray for judgment against
7 Defendant as follows:

- 8 1. An order certifying the proposed Class and appointing Plaintiffs and their
9 counsel of record to represent the Class;
- 10 2. A judgment awarding Plaintiffs and members of the Class actual damages
11 in an amount according to proof under all causes of action herein entitling
12 Plaintiffs and members of the Class to actual damages;
- 13 3. A judgment awarding Plaintiffs and members of the Class restitution,
14 including, without limitation, disgorgement of all profits and unjust
15 enrichment obtained by Defendant as a result of its unlawful, unfair, and
16 fraudulent business practices and conduct alleged herein;
- 17 4. A judgment awarding Plaintiffs and members of the Class exemplary
18 damages for Defendant's knowing, willful, and intentional conduct, as
19 alleged herein;
- 20 5. For an order awarding Plaintiffs and members of the Class pre-judgment
21 and post-judgment interest, as well as their reasonable attorneys' and
22 expert-witness fees, and other costs;
- 23 6. An order that Defendant be permanently enjoined from its improper
24 conduct and deceptive practices alleged herein; and

25
26
27
28 ///

1 7. For such additional or further relief as the Court finds just and appropriate.

2
3 Dated: November 5, 2009

COTCHETT, PITRE & McCARTHY
BERK LAW PLLC
KEITH L. MILLER

5 By: /s/ Niall P. McCarthy
 NIALL P. McCARTHY

6
7 NIALL P. McCARTHY (Cal. SBN 160175)
nmccarthy@cpmlegal.com
8 ANNE MARIE MURPHY (Cal. SBN 202540)
amurphy@cpmlegal.com
9 ARON K. LIANG (Cal. SBN 228936)
aliang@cpmlegal.com
COTCHETT, PITRE & McCARTHY
10 840 Malcolm Road, Suite 200
Burlingame, CA 94010
11 Tel: (650) 697-6000
Fax: (650) 697-0577

12
13 STEVEN N. BERK (*pro hac vice pending*)
steven@berklawdc.com
BERK LAW PLLC
14 1225 15th Street, N.W.
Washington D.C. 20005
15 Tel: (202) 232-7550
Fax: (202) 232-7556

16
17 KEITH L. MILLER (*pro hac vice pending*)
klm4law@aol.com
Twenty One School Street
18 Boston, MA 02108
Tel: (617) 523-5803
19 Fax: (617) 523-4563

20 *Attorneys for Plaintiff and the Putative Class*

21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY TRIAL DEMAND

Plaintiffs, pursuant to Federal Rule of Civil Procedure 38, individually and on behalf of all others similarly situated, demand a trial by jury of all issues which are subject to adjudication by a trier of fact.

Dated: November 5, 2009

**COTCHETT, PITRE & McCARTHY
BERK LAW PLLC
KEITH L. MILLER**

By: /s/ Niall P. McCarthy
 NIALL P. McCARTHY

NIALL P. McCARTHY (Cal. SBN 160175)
nmccarthy@cpmlegal.com
ANNE MARIE MURPHY (Cal. SBN 202540)
amurphy@cpmlegal.com
ARON K. LIANG (Cal. SBN 228936)
aliang@cpmlegal.com
COTCHETT, PITRE & McCARTHY
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Tel: (650) 697-6000
Fax: (650) 697-0577

STEVEN N. BERK (*pro hac vice pending*)
stcven@berklawdc.com
BERK LAW PLLC
1225 15th Street, N.W.
Washington D.C. 20005
Tel: (202) 232-7550
Fax: (202) 232-7556

KEITH L. MILLER (*pro hac vice pending*)
klm4law@aol.com
Twenty One School Street
Boston, MA 02108
Tel: (617) 523-5803
Fax: (617) 523-4563

Attorneys for Plaintiff and the Putative Class